

"The Court must keep in mind the history of this litigation, and the hearing that this Court has conducted in this case, as well as in the case that preceded it and that involved the same issues. This case cannot be continued indefinitely on the docket of the Court, and should be disposed of. The record shows substantial violation of the law, as complained of by the plaintiff, up to and including the final hearing, and it appears to be but proper that the injunction be made permanent so that the Government be relieved of the necessity of pursuing affirmative action in seeking compliance with the law, and of conducting police duties, in order to be assured that the defendants are producing and introducing into interstate commerce food that complies with the law. The burden now should be assumed by the defendants to keep their plant within the law.

"Injunction may, therefore, issue as prayed for.

"The plaintiff may prepare and file findings of fact and conclusions of law, drawn in accordance with this memorandum, within five (5) days, and the defendants may file any exceptions or suggested additions thereto within three (3) days thereafter."

On December 30, 1946, the court entered its findings of facts and conclusions of law and, in accordance therewith, entered a decree providing for the dismissal of the action against Eilene Finnell, on the ground that she had had no active part in the management, control, or operation of the business, and ordering that the other defendants be permanently enjoined from commission of the acts complained of. On October 5, 1948, the defendants moved the court to vacate and set aside the injunction. On November 29, 1948, the court overruled the motion.

14766. Adulteration of candy and cookies. U. S. v. Capitol Candy Co., Inc., and Charles E. Maley. Pleas of nolo contendere. Corporation fined \$200; Charles E. Maley fined \$50. (F. D. C. No. 26353. Sample Nos. 1118-K, 1522-K, 1523-K, 1526-K, 1706-K to 1708-K, incl., 23639-K, 23904-K to 23906-K, incl., 45850-K, 45851-K.)

INFORMATION FILED: April 22, 1949, Southern District of Mississippi, against Capitol Candy Co., Inc., Jackson, Miss., and Charles E. Maley, secretary-treasurer.

ALLEGED SHIPMENT: Between the approximate dates of September 7 and November 2, 1948, from the State of Mississippi into the States of Tennessee, Georgia, Alabama, and Florida.

LABEL, IN PART: (Portions) "Leader Brand [or "Capitol"] Vanilla Wafers" or "Capitol Stick * * * Capitol Candy Co."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insects, insect heads, insect fragments, insect larvae, and rodent hair fragments; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: May 6, 1949. Pleas of nolo contendere having been entered, the corporation was fined \$200 and Charles E. Maley \$50.

14767. Adulteration of chocolate rabbits. U. S. v. 55 Boxes, etc. (and 1 other seizure action). (F. D. C. Nos. 26606, 26656. Sample Nos. 40245-K, 56250-K.)

LIBELS FILED: February 15 and March 15, 1949, Districts of Maryland and New Jersey.

ALLEGED SHIPMENT: On or about January 7 and February 28, 1949, by Chocolate Creations, Inc., from New York, N. Y.